

Remarks/Arguments/Traversal

Consideration of the subject application in view of the present election and amendment is respectfully requested.

As previously set forth the election is for Claim group 1 including claims 1-15, embodiment (b) at least one antigenic molecule, and embodiment (i) sub-fragment A of Quillaja Saponaria Molina.

With regard to new claim 18, the dependency places this claim within claim group 1. With regard to the claims that read upon the elected aspects, it is to be appreciated that all of the claims read upon (b) at least one antigenic molecule. It should be appreciated that although all of the claims do not specifically state an antigenic molecule, none of the claims explicitly excludes the presence of an antigenic molecule. Next, with regard to the elected group (i) sub-fragment A of Quillaja Saponaria Molina all of the claims read upon this elected embodiment despite the fact that many of the claims do not specifically recite the limitation concerning sub-fragment A because none of the claims explicitly exclude sub-fragment A.

Next, turning to the imposition of the restriction requirements, the requirements are respectfully traversed. With regard to the requirement imposed between groups I and II, it is respectfully submitted that the proffered rational is not proper. Moreover, it is respectfully submitted that 37 CFR 1.475 explicitly mandates that these groups be considered together.

Next, with regard to the imposed election between (a) and (b), it is respectfully submitted that this also is not proper. There is no mutual exclusivity that is present for these two identified embodiments. Specifically, each may possess the other within a single embodiment. This is born out by the claims and specifically the claims that are identified within the Office action concerning embodiments (a) and (b). For example, claim 3 is identified with embodiment (a). However, claim 3 does not preclude at least one antigenic molecule, which is the embodiment identified as (b). Thus, this imposed requirement should be withdrawn as being improper.

Appl. No.: 10/550,026
Response dated: June 12, 2008
Reply to Office action of May 12, 2008

A similar situation occurs with regard to the embodiments identified as (i) and (ii). There is no mutual exclusivity that is present. In fact, the Office action identifies the same claims for both embodiments (i) and (ii). Thus the improperness of this requirement is clear.

To provide some additional material to aid the Examiner the following is provided.

The present invention relates to the surprising fact that it was found possible to mix live or attenuated live micro-organisms with iscom or matrix particles made from saponin preparations such as crude saponin and purified fractions A and C combined as separate particles or combines in common particles without killing or harming the live component. This is surprising since saponins in general are regarded as lytic and toxic compounds. Even more surprising was the finding that not only were the iscom nor matrix particles not harmful, contrary they also provided adjuvant effect to the live replicating micro-organism. So, it is believed that the position set forth within the Office action is not proper.

Applicant respectfully submits that all of the presently pending claims are allowable for the reasons set forth in the last response and that the application is in condition for allowance, a notice of which is respectfully requested.

If there are any additional fees resulting from this communication, please charge the same to our Deposit Account No. 16-0820, our Order No. ALBI-41848.

Respectfully submitted,
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June 12, 2008